

1 SCOTT N. SCHOOLS, SC SBN 9990
United States Attorney
2 JOANN M. SWANSON, CSBN 88143
Assistant United States Attorney
3 Chief, Civil Division
EDWARD OLSEN, CSBN 214150
4 Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102
Telephone: (415) 436-6915
FAX: (415) 436-6927

8 || Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

22 Defendants hereby submit their answer to Plaintiff's Complaint for Declaratory Judgment of
23 Naturalization Under 8 USC 1447(b) and 1421(c) and for Equal Access to Justice Act Under 5
24 USC 504 and 28 USC 2412.

First Cause of Action

26 1. Defendants admit that plaintiff is a lawful permanent resident; however, the remaining
27 allegations contained in Paragraph One consist solely of plaintiff's conclusions of law for which
28 no answer is necessary.

ANSWER
C07-2384 MEJ

2. Defendants admit the allegations in Paragraph Two with the exception that Rosemary Melville is the District Director of San Francisco USCIS, not David Still.

3. Paragraph Three consists of plaintiff's allegation regarding jurisdiction, to which no responsive pleading is required; however, to the extent a responsive pleading is deemed necessary, defendants deny that this Court has jurisdiction under any of the provisions cited in Paragraph Three.

4. Defendants admit the allegations in Paragraph Four.

5. Defendants admit the allegations in Paragraph Five with the exception that plaintiff was informed at the interview that she passed the English and Civis portions of the interview; moreover, the examination is ongoing.

6. The allegations contained in Paragraph Six consist solely of plaintiff's conclusions of law for which no answer is necessary; however, to the extent a response is deemed to be required, defendants deny the allegations in this paragraph.

7. The allegations contained in Paragraph Seven consist solely of plaintiff's conclusions of law for which no answer is necessary; however, to the extent a response is deemed to be required, defendants deny the allegations in this paragraph.

8. The allegations contained in Paragraph Eight consist solely of plaintiff's characterization of the lawsuit for which no answer is necessary; however, to the extent a response is deemed to be required, defendants deny the allegations in this paragraph.

9. The allegations contained in Paragraph Nine consist solely of plaintiff's conclusions of law for which no answer is necessary; however, to the extent a response is deemed to be required, defendants deny the allegations in this paragraph.

Second Cause of Action

11. Defendants incorporate its responses to Paragraph One through Ten as if set forth fully herein.

12. The allegations contained in Paragraph Twelve consist solely of plaintiff's conclusion of law for which no answer is necessary; however, to the extent a response is deemed to be required, defendants deny the allegations in this paragraph.

1 The remaining paragraph consists of plaintiff's prayer for relief and request for fees, to which
2 no admission or denial is required; to the extent a responsive pleading is deemed to be required,
3 defendants deny this paragraph.

4 **FIRST AFFIRMATIVE DEFENSE**

5 The court should dismiss the complaint under Fed. R. Civ. P. 12(b)(6) because plaintiff fail
6 to state a claim upon relief may be granted.

7 **SECOND AFFIRMATIVE DEFENSE**

8 The court should dismiss the complaint under Fed. R. Civ. P. 12(b)(1) for lack of subject
9 matter jurisdiction.

10 **THIRD AFFIRMATIVE DEFENSE**

11 This court lacks jurisdiction over any claim or claim against the United States Attorney for the
12 Eastern District of California.

13 WHEREFORE, defendants pray for relief as follows:

14 That judgment be entered for defendants and against plaintiff, dismissing plaintiff's Complaint
15 with prejudice; that plaintiff take nothing; and that the Court grant such further relief as it deems
16 just and proper under the circumstances.

17 Dated: June 11, 2007

Respectfully submitted,

18 SCOTT N. SCHOOLS
19 United States Attorney

20 /s/
21 EDWARD A. OLSEN
22 Assistant United States Attorney
23 Attorneys for Defendants